

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

**FILED**

**DEC 12 2005**

CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

CRESCENCIO MARTINEZ-AVENDANO,  
a/k/a Chencho,

Defendant - Appellant.

No. 03-50455

D.C. No.  
CR-99-00877-AHM-03

MEMORANDUM\*

Appeal from the United States District Court  
for the Central District of California  
A. Howard Matz, District Judge, Presiding

Submitted December 5, 2005\*\*

Before: GOODWIN, W. FLETCHER, and FISHER, Circuit Judges

Crescencio Martinez-Avendano appeals the 135-month sentence imposed following this court's remand in his prior appeal. This court previously affirmed

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\* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

\*\* This panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

Martinez-Avendano's jury trial conviction for conspiracy to detain illegal aliens as hostages in violation of 18 U.S.C. § 371, hostage taking in violation of 18 U.S.C. § 1203, and harboring and concealing illegal aliens in violation of 8 U.S.C. § 1324(a)(1)(A)(iii), but remanded for resentencing. *See United States v. Sierra-Velasquez*, 310 F.3d 1217 (9th Cir. 2002). We have jurisdiction under 28 U.S.C. § 1291.

We remand the sentence for further proceedings consistent with *United States v. Ameline*, 409 F.3d 1073, 1084-85 (9th Cir. 2005) (en banc).

**REMANDED.**